DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of the Secretary

Assistant Secretary for
Public Health Emergency Preparedness
Washington, D.C. 20201

TO MEMBERS OF THE AMERICAN ASSOCIATION OF RESPIRATORY CARE:

The Department of Health and Human Services (HHS) is the lead U.S. Government agency for coordinating Federal medical assistance to State, local and tribal governments in response to natural or man-made disasters.

With certain types of disasters, we anticipate the need for professionals who can administer complex respiratory therapy treatment to critically ill patients. The American Association of Respiratory Care (AARC) represents more than 40,000 respiratory care professionals and a network of 50 state societies. AARC provides a crucial communications link between HHS and the respiratory care community.

How can the membership of AARC help? HHS seeks to expand the cadre of 50 respiratory care professionals who have already joined the program by identifying additional geographically-dispersed Respiratory Care Providers (i.e., Registered Respiratory Therapists (RRT) and Certified Respiratory Therapists (CRT)), who are willing to be hired under HHS' emergency hiring authority when respiratory therapy expertise is needed to respond to natural or man-made disasters.

Professionals interested in participating should be graduates of an accredited school, hold a state license and be accredited through the National Board for Respiratory Care (RRT or CRT). While we have needs for all types of respiratory care professionals, we have specific needs for people who are engaged in clinical practice in pediatrics, emergency medicine, critical care and/or patient transport.

Individuals must be able to deploy on short notice and to practice under a variety of conditions that may include field medical health care units. Their employer must be willing to release them from normal duties for up to two weeks for an emergency response operation. A formal announcement of the specific hiring process is posted at: www.usajobs.gov Announcement number: HHS-OS-2006-0277.

Those hired by HHS under this authority will receive a salary commensurate with capabilities as well as liability coverage and Workers' Compensation. They also will receive training that will include familiarization with the Strategic National Stockpile (SNS) and the particular ventilator models and equipment it caches.

When a significant public health emergency arises, HHS must be ready to respond and help the American people recover. Please help us fulfill our mission by being a part of an important cadre of professionals who will respond with the Federal government during a public health or medical emergency.

Sincerely,

W. C. VANDERWAGEN, MD

RADM W. Craig Vanderwagen, M.D.

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September 22, 2006

Rudy Arredondo, Ed.D,
Council Chair
State Health Services

Dear Mr. Arredondo,

The Texas Society for Respiratory Care (TSRC), has been in existence since 1969 and represents the interests of over 11,231 licensed respiratory care practitioners (RCPs) across the state of Texas.

The TSRC wishes to express opposition to the FY 08-09 Legislative Appropriations Request (LAR) for the Department of State Health Services (DSHS) that eliminates licensure regulation for respiratory care practitioners (RCP).

Our opposition to this proposal is based upon the following:

- The safety of the citizens of Texas whereby licensure ensures only competent professionals delivers care to patients with respiratory ailments.
- Respiratory Care Practitioners are responsible for maintaining critical life support systems in the absence of physicians.
- Licensure regulations mean background checks and provide a measure of protection to hospitals and healthcare consumers who may come in contact with respiratory care practitioners.
- Regulation of our profession generates revenue dollars for the state. In FY 05, DSHS respiratory program revenue was: $ 691,352 versus expenses of $246, 694; resulting in a net income to the state of $444,658.
- The Department of Health and Human Services recognizes the importance of having trained respiratory care professionals to administer complex respiratory therapy treatments to critically ill patients and is actively recruiting them to be available for national emergencies (See Attachment).
- Numerous other licensed professions have national examinations, yet are not being considered for elimination.

Respiratory Care Practitioners work in hospitals, intensive care units, emergency rooms, newborn and pediatric units, operating rooms, air transport and ambulance programs, patient's homes, sleep laboratories, skilled nursing facilities, doctor's offices, asthma and smoking cessation programs and case management.

Licensure for our profession is currently in place in 48 states, and legislative processes are underway in Hawaii and Alaska to enact mandatory licensure in each of these states. On behalf of the citizens of Texas and the patients we treat with lung illness, we urge you to eliminate further discussions surrounding the idea of eliminating respiratory care licensure.

Sincerely,

Marty Partida, MHA, RRT
President

Cc: Pam Kaderka

NBRC

The National Board for Respiratory Care, Inc.



August 30, 2006

Eduardo J. Sanchez, MD, MPH
Commissioner
Texas Department of State Health Services
1100 W. 49th Street
Austin, TX 78756

***Sent by Facsimile***

Dear Dr. Sanchez:

This is sent concerning the proposed allocation of the biennial ten percent budget reduction which would eliminate the Respiratory Care Practitioner licensing program in the state of Texas beginning in FY '08-09. I am writing to voice our opposition to such elimination.

The National Board for Respiratory Care, Inc. (NBRC) is the national credentialing body for respiratory care and supports the 48 states that regulate the practice of respiratory care through use of our entry level certification examination for individuals to provide evidence of minimum competency in the practice of respiratory care. State regulatory boards, such as Texas, use the NBRC's examination as the basis for licensure, providing a no cost means for the state to verify a practitioner's competency.

More importantly, licensure of respiratory care practitioners provides public protection and protects the scope of practice of the individuals who are trained and qualified to perform respiratory care services. Over 13,000 credentialed respiratory care practitioners reside in the state of Texas, and it would behoove the state to ensure that the patients these practitioners care for are protected by state regulation.

We appreciate and encourage the state's reconsideration of the proposed elimination of the respiratory care practitioner licensing program as part of the allocation of the biennial ten percent reduction for the state's FY '08-09 budget.

Sincerely,

Gary A. Smith
Executive Director

cc: Machelle Pharr, CFO, Department of State Health Services
Kathryn C. Perkins, RN, MBA, Interim Assistant Commissioner, Division for Regulatory Services

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August 30, 2006

Eduardo J. Sanchez, MD, MPH
Commissioner
Texas Department of State Health Services
1100 W. 49th St
Austin, TX 78756

**RE:** ***Proposed changes in the Legislative Appropriations Request (LAR) for the Department of State Health Services (DSHS) to eliminate licensure regulation for the profession of respiratory care.***

Dear Commissioner Sanchez:

The American Association for Respiratory Care (AARC), based in Irving, TX, is the national professional association representing over 40,000 respiratory care practitioners. The AARC is unequivocally opposed to the proposed Legislative Appropriations Request (LAR) for the Department of State Health Services to eliminate Texas mandatory state licensure for the respiratory care practitioner (RCP).

If implemented, the elimination of licensure of the respiratory care practitioner will immediately place the health, well-being and safety of pulmonary patients in jeopardy. Without mandatory licensure *anyone* may legally claim they are a respiratory care practitioner and be hired as such with absolutely no oversight by any regulatory body.

Twenty years ago, the Texas state legislature and Governor recognized the urgent need to license, monitor and set clear standards and guidelines for anyone endeavoring to practice respiratory care and hold himself/herself out as a respiratory care practitioner. Thus mandatory licensure for the respiratory care practitioners was enacted in 1986.

There has been no change in the foundation on which the state of Texas recognized that it was essential to license this life-sustaining profession and practitioners of respiratory care. Indeed the profession has, over the last 20 years, become more complex and now requires more formal education to master the intricacies of the clinical components of the profession.

**Scope of Practice of the Respiratory Care Practitioner**

Respiratory care is a highly specialized allied health discipline focused on the management and treatment of lung disease and illness. Respiratory care practitioners

treat patients with acute and complex respiratory problems in a broad spectrum of settings.

Respiratory care practitioners assess the status of patients' health and recommend medications and delivery devices to the attending physician. In collaboration with physicians, they design, implement, and modify respiratory therapy treatment plans. Using protocol-based care, respiratory care practitioners initiate, conduct, and modify prescribed therapeutic procedures, assist physicians performing special procedures, and conduct pulmonary rehabilitation. They select appropriate equipment, verify its operation, correct malfunctions, and assure that it will not contribute to infections. New techniques, new procedures, new respiratory drugs, new and more complex equipment continues to enter the realm of respiratory care.

## Implications for Eliminating Respiratory Care Licensure

### *1. Anyone can call themselves a respiratory care practitioner.*

As stated above, to rescind licensure for the respiratory care practitioner is to legally permit **any** individual to use the term respiratory therapist, respiratory care practitioner or any other term that would lead patients, consumers and employers to assume that these individuals have graduated from an accredited education program and have passed a valid and reliable competency examination and are indeed health care professionals.

Without licensure there will be:

- ***no state requirement*** that the individual purporting to be a respiratory care practitioner or respiratory therapist has completed a formal accredited respiratory therapy education program
- ***no requirement*** that the individual has obtained competency via a valid and reliable examination
- ***no requirement*** for anyone to establish that they have no criminal record
- ***no requirement*** that the individual maintain continuing education.

### *2. A national exam doesn't cover all that licensure accomplishes.*

A statement used as a rationale for elimination of respiratory care licensure in an August 18th, 2006 letter from Texas Department of State Health Service to Mr. Gary Herrin of the Texas Society for Respiratory Care states:

> "…the availability of a national examination and certification…"

It is a misguided notion, that a national exam will somehow take the place of the standards and guidelines required by professional licensure.

Licensure, as we believe the Department of Health is well aware, is far more than just verification that a competency exam has been taken. Licensure involves detailed review of applications, background verification, continued education documentation, and disciplinary investigation, review and action.

We would point out as a limited example that in the state of Texas the following licensed health professions also have national examinations and certifications, yet we do not see these professions slated for elimination:

Physical therapy
Occupational therapy
Message therapy
Funeral Service Directors
Radiological Technologists

***3. Respiratory care practitioners provide a significant amount of health care to Texas citizens outside of the hospital.***

Another portion of the same August 18 letter to Mr. Herrin states the following:

"…..whether primary practice occurs in a controlled environment compared to independent practice."

Respiratory care is a dynamic and ever-evolving profession. New techniques, new procedures, new respiratory drugs, a new focus on disease management programs for asthma, smoking cessation, COPD, and new and more complex equipment continues to enter the realm of respiratory care. A combination of financial pressures and medical advancements have altered the patient health care paradigm. Respiratory care services that were once only performed in a hospital are now being rendered in a variety of health care settings outside of the hospital.

According the 2005 AARC National Manpower Survey, clearly one third of all Texas respiratory care practitioners work outside of the hospital environment.
Since 2000 when the survey was previously conducted the percentage of respiratory therapists who work in nursing homes, home care, home care equipment companies, physician offices, clinics, rehabilitation centers, sleep lab facilities has increased by 25%. There is a clear trend that respiratory care practitioners will provide in increasing numbers respiratory services outside of the hospital setting.

We again reiterate, that respiratory care practitioners, as physician extenders, provide their services to patients of all ages, from the elderly to children with minimal direct physician supervision. In other words respiratory care practitioners, particularly outside of the hospital, render services without a physician's presence.

Moreover, there are non-traditional business entities that are entering the health care service market. The AARC is concerned that there is a growing trend in the country for health care employers to attempt to utilize unlicensed individuals to provide respiratory care services in various health care settings. Scrutinizing and assessing these evolving entities is critical to assuring that only respiratory care services provided by qualified and licensed individuals is being rendered. This is but one of the roles a Licensure Board assumes, that is permitting only qualified individuals to render respiratory care services. Elimination of respiratory care licensure throws the door wide open to sanctioning these new health care entities to use anyone with no need to document any qualifications or competence in respiratory therapy to provide it to the unsuspecting citizens of Texas.

***4. Texas will be the only state in the continental U.S. without licensure.***

Texas will become the only state in the contiguous 48 States (and The District of Columbia and Puerto Rico) without licensure of the respiratory care practitioner and the respiratory profession. Texas, therefore will become a magnet for every failed respiratory therapist (those who DO have the education and HAVE taken the competency exam), for any individual who has had his/her respiratory therapy license revoked and as stated above for anyone who simply chooses to state he/she is a respiratory therapist.

***5. Texas will not be able to participate in the National Disciplinary Database.***

All state respiratory care Licensure Boards, including Texas have free access to a national database maintained by the National Board for Respiratory Care. This database contains information on state licensure board actions against licensed RCPs. Thus, when an individual applies for a license in any state, the licensure board may check with the database to determine if the applicant has had a license revoked or other disciplinary action taken against him or her. This vital information from the database is used throughout the country to make determinations on the appropriateness for issuing a license.

With the elimination of RCP licensure, Texas will neither be giving important information to other states, nor will it benefit from the knowledge bank of information available on personnel.

***6. Eliminating a self-funding board will not mitigate the States' financial pressures.***

While the AARC understands and acknowledges the financial pressure that is driving the initiative to eliminate licensure for certain professions, we cannot understand the logic of eliminating the self-funding Respiratory Care Board. We would point out that the Texas Board of Respiratory Care generates income that exceeds its cost of operation. The Respiratory Care Licensure Board administrative costs are paid for via licensure fees from the respiratory care practitioner and not the rest of the citizens of Texas. The general fund of the state of Texas will not benefit with the abolition of the Board of Respiratory Care.

The AARC is comprised of 52 state/territories affiliated societies and the Association has devoted the past 25 years in assisting our state societies in their efforts to protect the health and safety of the respiratory patient by advocating, funding and assisting in state efforts to enact mandatory state licensure of respiratory care practitioners. Forty-eight states, the District of Columbia and Puerto Rico all have recognized that, for the safety of its citizens, the provision of respiratory care or respiratory therapy services demands that both the profession and the professional be regulated by the state. Only Hawaii and Alaska are without state regulation and both of these state societies are involved in the legislative process to enact mandatory respiratory licensure.

Ultimately, it will be the citizens of Texas and the respiratory patient who will suffer the consequences if the elimination of respiratory care licensure is implemented. The AARC urges the Department in the strongest possible terms to dismiss any further consideration of the elimination of respiratory care licensure and the Board that oversees this critical patient safety function.

Sincerely,

Michael W. Runge, RRT
President

cc: Kathryn C. Perkins, RN, MBA
Machell Pharr